

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS  
EASTERN DIVISION**

CIVIL ACTION No. 04-11934-GAO

NOAH GREENBERG,  
Plaintiff

v.

TOWN OF FALMOUTH and  
GANNETT FLEMING, INC.,  
Defendants

**PLAINTIFF'S REPLY TO DEFENDANT TOWN OF FALMOUTH'S  
OPPOSITION TO PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION**

EXHIBIT A

**PIERCE, DAVIS & PERRITANO, LLP**  
COUNSELLORS AT LAW

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John J. Davis \*  
Judith A. Perritano  
John J. Cloherty III \*

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Daniel G. Skrip ♦  
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♦ also admitted in PA  
† also admitted in NY  
● also admitted in CT  
■ also admitted in FL

Daniel G. Skrip  
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dskrip@piercedavis.com

October 11, 2005

**Via Facsimile**

Attorney Richard M. Russell  
Heritage Place Common  
205 Worcester Court, Unit B 2  
Falmouth, Massachusetts

Attorney John C. Barker  
Michienzie & Sawin LLC  
745 Boylston Street, 5<sup>th</sup> Floor  
Boston, Massachusetts 02116-2636

Re: *Noah Greenberg v. Town of Falmouth, et al.*

Gentlemen:

I understand the attached to be the contract at play in this action. I hope to confirm this with Bill Lynch tomorrow. I look forward to seeing you at the upcoming deposition. I realize I have some discovery due. Thank you for your patience.

Very truly yours,

**PIERCE, DAVIS & PERRITANO, LLP**

  
Daniel G. Skrip

DGS/dtm  
Attachment

# Department of Public Works



59 Town Hall Square  
FALMOUTH, MASSACHUSETTS 02540

WILLIAM B. OWEN, P.E.  
Director

February 01, 1994

Mr. Noah Greenberg  
Robert Charles Group  
411 Waquoit Highway  
Falmouth, MA 02536

SUBJECT: PUBLIC WORKS SERVICE MAINTENANCE FACILITY

Dear Mr. Greenberg:

Please be advised the Board of Selectmen at their meeting on January 31, 1994 awarded your firm the contract for preparing preliminary plans for the above captioned facility for your submitted lump sum proposal of Seven Thousand Eight Hundred Dollars (\$7,800.).

Work shall be done in accordance with the Town of Falmouth scope of work dated November 09, 1993, copy of which is enclosed.

Please contact me and I will furnish you any existing information you may need to proceed with this project.

I look forward to working with the Robert Charles Group.

Very truly yours,

William B. Owen, Director  
Department of Public Works

WBO/smh  
Enclosure

cc: Paul Ullo, Town Accountant

## Department of Public Works

59 Town Hall Square  
FALMOUTH, MASSACHUSETTS 02540WILLIAM B. OWEN, P.E.  
*Director*TOWN OF FALMOUTHREQUEST FOR PROPOSALS

The Town of Falmouth Department of Public Works requests Architectural Consultant Services to prepare preliminary plans for the expansion and renovation of the existing Public Works Service Maintenance Facility at 416 Gifford Street.

Fee proposals will be received in the Office of the Director of Public Works, 59 Town Hall Square, Falmouth, MA until 2:00 P.M. on Tuesday, December 07, 1993 at which time and place the Proposals will be publically opened and read.

Proposals must be submitted in sealed envelopes, plainly marked on the outside of the envelope "PROPOSAL FOR ARCHITECTURAL CONSULTANT SERVICES, MUNICIPAL SERVICE MAINTENANCE FACILITY".

The full scope of services may be obtained at the Office of the Director of the Director of Public Works, 59 Town Hall Square, Falmouth, MA 02540 between 8:30 A.M. and 5:00 P.M. Monday through Friday, Telephone: (508) 548-7611.

The Town of Falmouth reserves the right to waive any informalities in the proposals and to reject any and all proposals and the right to award the bid, or parts thereof, as may be determined by the funds available, in the best interest of the Town of Falmouth. Bids are welcome from minority and female businesses.

William B. Owen, P.E.

Director of Public Works

The Enterprise  
November 09, 1993

TOWN OF FALMOUTH

## DEPARTMENT OF PUBLIC WORKS

## REQUEST FOR ARCHITECTURAL CONSULTANT SERVICES

## MUNICIPAL SERVICE MAINTENANCE FACILITY

GENERAL

The Town of Falmouth Department of Public Works requests Architectural Consultant Services to prepare preliminary plans for the expansion and renovation of the existing Public Works Service Maintenance Facility at 416 Gifford Street, Falmouth.

The Consultant must exhibit to the Town the firm has experience and the technical knowledge to work with older building components and to introduce new design elements and efficient building materials into the existing facility.

The consultant must listen and communicate with the Town to determine the specific objectives of the project and have the ability to translate these goals into a design program which respects existing conditions, new space requirements, aesthetic features and budget considerations.

SCOPE OF SERVICESA. Space Planning

1. Meet with DFW Director and staff to determine future space requirements for a centralized facility at the present Gifford Street location. The Department's objective is to expand the facility to accommodate present and future equipment storage needs, locate Water Department maintenance facility at this location, centralize offices, update mechanic repair areas, review traffic flow patterns within the building and recommend improvements.
2. Study other areas such as bathroom facilities, locker facilities, storage rooms, lubrication facilities, lunch areas, etc. and recommend improvements.
3. The Town will supply the consultant with a list of all equipment that is garaged at this facility.
4. The Town will furnish the consultant existing building plans and site plan.
5. Determine from the collected information what the future space plan should include in terms of building size, general floor plan, parking and access, and support facilities.

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B. Site Planning

1. The consultant will view the present site and plan building renovations and/or additions so there will be smooth and uncongested traffic flows within the site. The Town shall supply the consultant a current and up-to-date site plan.
2. The Town has recently installed a Municipal Fuel Center at this location, so no planning is required for a facility of this type.

C. Preliminary Plan

1. Prepare preliminary architectural plans showing present building layout and proposed additions and renovations. Building elevations shall also be included as part of these plans. A rendering of the new building shall also be included. These plans should be prepared at a scale of not less than 1/8" per foot.
2. Upon finalization of proposed work and following approval, the consultant shall furnish the Town six (6) copies of the preliminary plans and one (1) reproducible mylar.
3. The consultant shall also furnish the Town a conceptual site plan indicating proposed additions.
4. As part of the preliminary plan task, the consultant shall present a brief report to include recommendations for upgrading the mechanical and electrical systems.

D. Cost Estimate

1. Using the plans prepared in the above tasks, the consultant shall prepare an estimate of probable construction cost. The cost estimate is to reflect current construction costs. Cost estimates are also to include any upgrading of mechanical and electrical systems.

E. Other Services

1. The consultant shall inspect existing roof areas of the present building and present a brief report and details for correcting the present roof problems along with an estimated cost of such repairs.
2. The consultant shall explore the availability of any Federal and State Grants that may be available for construction.



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PROPOSAL

1. The consultant shall base his fee on a lump sum fee for all of the above work.

2. All proposals shall be submitted to:

William B. Owen, P.E.  
Director of Public Works  
59 Town Hall Square  
Falmouth, MA 02540

Telephone: (508) 548-7611, Ext. 231

3. The consultant shall submit with his proposal a current Certificate of Professional Liability Insurance.

PIERCE, DAVIS & PERRITANO, LLP  
Ten Winthrop Square  
Boston, MA 02110

**TELECOPY COVER SHEET**

DATE: October 11, 2005

OUR FILE NO: 282-0402538

TOTAL NUMBER OF PAGES: - 7 -

(INCLUDING THIS SHEET)

PLEASE DELIVER THE FOLLOWING PAGES TO:

Facsimile No. : (508) 548-2477

Name : Attorney Richard M. Russell

\*\*\*\*\*

From : Pierce, Davis & Perritano, LLP

Name : Attorney Daniel G. Skrip

Phone No. : (617) 350-0950

Facsimile No. : (617) 350-7760

\*\*\*\*\*

Regarding : *Greenberg v. Falmouth, et al.*

\*\*\*\*\*

Remarks:

**NOTE:** If you do not receive all the pages, please call back as soon  
as possible: (617) 350-0950.

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Subj: **Greenburg/Falmouth**  
Date: 10/12/2005 8:43:19 AM Eastern Standard Time  
From: [DSkrip@piercedavis.com](mailto:DSkrip@piercedavis.com)  
To: [capecodlaw@aol.com](mailto:capecodlaw@aol.com), [jb@masatlaw.com](mailto:jb@masatlaw.com)  
*Sent from the Internet (Details)*

Gentlemen:

I have confirmed this morning with Bill Owens (mistakenly referred to as 'Lynch' in my letter yesterday) that, as suspected, the document I attached to my letter dated October 11, 2005, is the contract at play in this action.

I look forward to seeing you at the upcoming deposition.  
dgs

Attorney Daniel G. Skrip  
Pierce, Davis & Perritano, LLP  
10 Winthrop Square  
Boston, Massachusetts 02110-1257

Telephone: 617 350 0950 ext. 109  
Facsimile: 617 350 7760

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